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In the Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-961

AMBASSADOR COLLEGE,
Petitioner,

vs.

SALLY J. GOETZKE,
Respondent.

BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF GEORGIA

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The Atlanta Journal and Constitution, January 6, 1979, at 8-B 13

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The Atlanta Journal and Constitution, Saturday, February 17, 1979, at 1 13

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OPINIONS BELOW

The opinion of the Supreme Court of Georgia is reported as Ambassador College, et al. vs. Goetzke, 244 Ga. 322 (1979), and is appended to the Petition for a Writ of Certiorari (Petition App. A34). The order of the Supreme Court of Georgia denying rehearing is not reported but is appended to the Petition for a Writ of Certiorari (Petition App. A40). The judgment of the Superior Court of Ben Hill County, Georgia is not reported, but is appended to the Petition for a Writ of Certiorari (Petition App. A30).

JURISDICTION

Respondent respectfully maintains that this Court lacks jurisdiction to review this cause for the reason that the Supreme Court of Georgia decided said cause based upon adequate and independent non-federal grounds and for the further reason that said cause does not present a substantial federal question for review.

QUESTION PRESENTED

Respondent shows that Petitioner puts forth a question which was never properly raised in a timely manner in the trial court and was not a basis of decision in the Court below, and is therefore not proper for consideration by this Court.

STATUTES AND RULES INVOLVED

Georgia Civil Practice Act, Section 4(e)(1)(iii), Ga. Code Ann. § 81A-104(e)(1)(iii):

> "When the court orders service by publication, the Clerk shall cause the publication to be made in the paper in which sheriff's advertisements are printed four times within the ensuing 60 days, publication to be at least seven days apart. The party obtaining the order shall at the time of filing deposit the cost of publication. Said published notice shall contain the name of the parties plaintiff and defendant, with a caption setting forth the court, the character of the action, the date the action was filed, the date of the order for service by publication, and a notice directed and addressed to the party to be thus served, commanding him to file with the Clerk and serve upon

> the plaintiff's attorney an answer within 60 days of the date of the order for service by publication and shall bear teste in the name of the Judge, and shall be signed by the Clerk of said court. Where the residents or abiding place of the absent or non-resident [party] is known, the party obtaining the order shall advise the clerk thereof and it shall be the duty of the clerk, within 15 days after filing of the order for service by publication, to inclose, direct, stamp and mail a copy of the notice, together with a copy of the order for service by publication and complaint (if any), to said party named in said order at his last-known address, if any, and make an entry of his action on the complaint or other pleadings filed in said case. . . ."

Georgia Civil Practice Act, § 33, Georgia Code Annotated § 81A-133 (Petition App. A41-A42).

Georgia Civil Practice Act, § 34, Georgia Code Annotated § 81A-134 (Petition App. A42-A44).

Rule 23(f), Revised Rules of the Supreme Court of the United States:

> "If review of the judgment of a state court is sought, the statement of the case shall also specify the stage in the proceedings in the court of first instance and in the appellate court, at which, and the manner in which, the federal questions sought to be reviewed were raised; the method of raising them (e.g., by a pleading, by request to charge and exceptions, by assignment of error); and the way in which they were passed upon by the Court; such pertinent quotations of specific portions of the record, or summary thereof, with specific reference to the places in the record where the matter appears (e.g., ruling on exception, portion of the court's

charge and exception thereto, assignment of errors) as will show that the federal question was timely and properly raised so as to give this court jurisdiction to review the judgment on writ of certiorari. . . ."

STATEMENT OF THE CASE

The statement of Petitioner includes allegations of fact that are not supported by the record in any manner whatsoever, and deletes certain facts necessary to a thorough consideration of the petition, and Respondent therefore sets forth the salient facts of this case.

In February of 1975, Respondent's mother, Madeline Hopkins Shaffer, executed a "deed and real estate trust agreement" (R. 11-12) under which she conveyed her homeplace to two individuals as trustees for Petitioner Ambassador College. The deed and trust agreement was not recorded, however, until July 7, 1978 (R. 11), in excess of three years after its execution and less than one month after the death of Madeline Hopkins Shaffer (R. 4). Shortly thereafter, the two trustees quitclaimed any interest they had in the property to Petitioner (R. 13-14).

Upon learning of the existence of the above-referenced deeds, Sally J. Goetzke, Respondent herein and the daughter and sole heir at law of Madeline Hopkins Shaffer, brought suit against the Petitioner and the two trustees seeking cancellation of the above-referenced deeds as a cloud upon the title of the said property on several grounds, including mental incapacity (R. 6), lack of mental ability coupled with inadequate consideration and fraudulent misrepresentation (R. 7), undue influence (R. 7), unconscionability (R. 8), and the testamentary character of the real estate deed and trust agreement (R. 9). The complaint was filed on September 8, 1978 (R. 3), and an order that Petitioner be served by publication was duly entered on the same day (R. 22).

Attached to and as a part of her complaint, Respondent also filed seventeen enumerated interrogatories (R. 15-18) and six requests for production of documents (R. 19) directed to Petitioner.

Although the order for service by publication and certificate of mailing were dated September 8, 1978 (R. 23, 24), Ambassador College did not file any response to said interrogatories or requests for production of documents until October 27, 1978, 49 days after the date of service (R. 36, 63). The responses of Ambassador College to said interrogatories and requests for production of documents totalled some 71 pages (R. 36-106), and with the exception of partial and incomplete answers to interrogatories numbers 4, 6, 14 and 15 and with the exception of request for production of documents number 1, Ambassador College failed and refused to answer any of said interrogatories or produce any of said documents, and instead filed lengthy objections thereto (R. 36-106). Thereafter, on November 6, 1978, Petitioner filed its answer to the complaint of Respondent (R. 107). On November 17, 1978, Respondent filed her motion for order to make discovery with regard to the above interrogatories and requests for production of documents (R. 117-121), and said motion was set for hearing on December 12, 1978 (R. 20). The matter was heard by the Court at said time, and although the burden of proving the validity of the objections was upon Petitioner Ambassador College, said Ambassador College failed to produce any evidence whatsoever. Nevertheless, the trial court painstakingly considered those objections that could be considered on their face without substantiation by the production of evidence, and on January 15, 1979, entered a detailed order sustaining the objection of Ambassador College that certain

of said interrogatories and requests for production of documents were overly broad and ordering the remainder answered or produced within 30 days of the date of the order (R. 129-130).

Although the Court ordered Ambassador College to answer interrogatories numbers 1, 2, 3, 4, 5, 7, 8, 9, 12, 17, and parts of 15, and ordered Ambassador College to produce the documents requested in request number 6 (R. 129-130) Ambassador College only partially and incompletely answered interrogatories numbers 4, 7, 8, 9, and 17 (R. 148-151), still failing and refusing to answer the remaining interrogatories or produce the documents as ordered by the Court.

Thereafter, on the 21st day of February, 1979, Respondent filed her motion for imposition of sanctions under which she specifically requested that the Court grant her judgment for all the relief prayed for in her complaint due to Petitioner Ambassador College's continued willful failure to comply with the order of the Court regarding said discovery (R. 212-216).

The motion was heard by the Court on the 9th day of March, 1979, and on the 15th day of March, 1979 (R. 239), and again Petitioner failed to produce any evidence whatsoever in substantiation of its objections, and thereafter, on March 21, 1979 (R. 239), the Court entered an order finding that Ambassador College had willfully failed and refused to comply with the previous order of the Court entered on the 15th day of January, 1979, and ordering that Respondent's motion for sanctions be granted and that Respondent have judgment against Ambassador College for the relief prayed for unless Ambassador College filed answers and produced documents as required by said order on or before March 30, 1979 (R. 239-240).

In spite of the fact that 204 days had passed since the date of service of said interrogatories and requests for production of documents upon Ambassador College and in spite of the fact that Ambassador College had been granted additional time to answer said interrogatories and comply with said requests for production on two separate occasions by order of the Court said Ambassador College still failed and refused to answer said interrogatories or produce said documents as ordered by the Court and thereafter on April 2, 1979, Respondent Sally J. Goetzke filed her motion for order for judgment based upon said continued willful failure to comply upon the part of Ambassador College (R. 243-247). The matter was heard by the Court on April 9, 1979, and on April 10, 1979, the Court entered judgment in favor of Respondent finding that Ambassador College had willfully failed and refused to carry out the terms of the previous orders of the Court (R. 248), and the Court thereupon ordered the deeds cancelled as a cloud upon the title of Respondent, as prayed for in her complaint (R. 248-250).

Petitioner thereupon appealed to the Supreme Court of Georgia and the cause was argued before said Court on July 11, 1979. In argument, Ambassador College discussed its objections to the interrogatories, relying mainly on its objection that the same were irrelevant to the subject matter of the action and not reasonably calculated to lead to the discovery of admissible evidence. Respondent vigorously argued that the objections of Petitioner were not timely filed and therefore could not be considered, and further argued that even if they were timely filed, no evidence was presented to substantiate that Petitioner was entitled to any constitutional protection.

Petitioner contends that the Supreme Court of Georgia treated its objections as going to the admissibility of the

information sought rather than its production in the first place (Petition, p. 6). Respondent shows, however, that a careful reading of the opinion of the Supreme Court of Georgia (Petition App. A34-A38) reveals that the Supreme Court of Georgia did not decide the constitutional questions raised but rather affirmed the trial court on independent and adequate non-federal grounds.

Respondent shows that although four separate hearing dates were set by the Court during the proceedings aforesaid at no time was any evidence whatsoever offered by Petitioner in support of its objections to the discovery sought by Respondent, and the trial court was thus deprived of the opportunity to ascertain facts concerning the nature and status of Ambassador College, which Ambassador College has attempted to present to this Court in its Petition (See page 3, footnote 1). Petitioner has thus brought this case to this Court requesting that this Court give Petitioner constitutional protection based on an alleged religious affiliation, when in fact Petitioner failed to make even a threshold showing in the trial court that its status or connections entitled it to the constitutional protections requested.[1]

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1. It is interesting to note that Petitioner based its entitlement to constitutional privileges on its alleged close relationship with the Worldwide Church of God, while at the same time Petitioner objected to furnishing answers to discovery concerning the Church on the grounds that the Worldwide Church of God was a separate corporation, not under the authority or control of Ambassador College, and the requested information was therefore unavailable (Petition App. A19). This alone seems to demonstrate the need for some threshold showing of entitlement by one claiming constitutional privileges.

ARGUMENT

I.

The Decision Below Is Based Upon Adequate Independent Non-Federal Grounds and This Court, Therefore, Lacks Jurisdiction to Review This Cause.

It is well settled that this Court will not review the judgment or decree of the highest court of a state where that judgment or decree rests upon adequate independent non-federal grounds. *Murdock v. Memphis,* 20 Wall. (U.S.) 590 (1875). This time-honored rule is derived from the basic grant of jurisdiction to this Court to review the judgments and decrees of state courts, and it is essential to the jurisdiction of this Court in reviewing a decision of a court of a state that it must appear affirmatively from the record, not only that a federal question was presented for decision to the highest court of the state having jurisdiction, but that its decision of a federal question was necessary to the determination of the cause and that the federal question was actually decided or that the judgment as rendered could not have been given without deciding it. *Southwestern Bell Teleph. Co. v. Oklahoma,* 303 U.S. 206, 212, 213 (1938); *McGoldrick v. Gulf Oil Corp.,* 309 U.S. 2 (1940); *Lynch v. New York Ex Rel. Pierson,* 293 U.S. 52 (1934). Furthermore, it has been held that where the highest court of a state has failed to pass upon a federal question, it will be assumed that the omission was due to want of proper presentation in the state courts, unless the aggrieved party in this Court can affirmatively show the contrary. *Bailey v. Anderson,* 326 U.S. 203 (1945); *Street v. New York,* 394 U.S. 576 (1969). Moreover, where the opinion of the state court does not clearly delineate the basis of its decision as between

a federal constitutional ground and an independent non-federal ground, this Court will choose the interpretation which does not present the Court with a constitutional question. *Black v. Cutter Laboratories,* 351 U.S. 292 (1956).

Clearly, the Petitioner has not met its burden of establishing that a federal question has been properly presented to this Court for review. Petitioner concedes that the Supreme Court of Georgia did not directly decide the alleged constitutional issues adverse to Petitioner, but rather Petitioner contends that the Supreme Court of Georgia effectively did so by ignoring the objections (Petition, pp. 6, 9). Respondent agrees that the Supreme Court of Georgia did not directly meet the constitutional objections raised by Petitioner, but it is respectfully submitted that no ruling was necessary due to the presence of other adequate and independent non-federal grounds which authorized the affirmance of the trial court.

Several adequate and independent non-federal grounds were present in this cause upon which affirmance was authorized. First, Respondent vigorously argued that under Georgia Code Annotated §§ 81A-133, 81A-134, and 81A-104(e)(1)(iii), supra, Petitioner had 45 days after the date of the order for service by publication to file its objections to the discovery sought. Petitioner did not file said objections, however, until some 49 days had elapsed (R. 36, 63) and Respondent shows that such a late filing of objections waives the objections under applicable Georgia law. *Drew v. Hagy,* 134 Ga. App. 852, 216 S.E. 2d 676 (1975). The failure to present a federal question in conformance with state procedure constitutes an adequate and independent ground of decision barring review in this Court, so long as the State has a legitimate interest in enforcing its procedural rule, and the Petitioner bears the

burden of asserting that the State does not have such a legitimate interest. *Michigan v. Tyler,* 436 U.S. 499 (1978). Furthermore, Rule 23 of the Revised Rules of the Supreme Court of the United States, supra, specifically imposes upon the Petitioner the burden of affirmatively showing that the federal question asserted on petition for certiorari was timely and properly raised so as to give this Court jurisdiction to review the judgment of the Court below. This the Petitioner has failed to do, and this alone would justify denial of the writ sought.

Second, Respondent shows that the burden of showing the validity of objections to discovery is on the objector under applicable Georgia law. *Williamson v. Lunsford,* 119 Ga. App. 240, 166 S.E. 2d 622 (1969). In the case of constitutional objections such as those advanced by Petitioner based on associational privacy, it would seem that at the very least some sort of threshold showing that the objector is an entity entitled to assert such objections would be required, especially in a case such as the one at bar where the entity is admittedly not a church itself, but bases its entitlement to the constitutional protection on its relationship to a church. Nevertheless, no competent evidence whatsoever was presented at any point during the proceedings below which would establish in any way the status of Petitioner as an entity entitled to claim the constitutional protections asserted.

In its petition, Petitioner attempts to put forth the necessary facts by citing the Court to its own answer to an interrogatory propounded by Respondent (Petition, p. 3). Answers to interrogatories, however, like an affidavit, are not subject to cross-examination and are therefore not admissible or competent evidence to prove a contention advanced by the answering party. *Reynolds v. Reynolds,* 217 Ga. 234, 123 S.E. 2d 115 (1961). Even if some evi-

dence had been presented, certainly the trial court was entitled to find that the connections were not such that Petitioner was entitled to any constitutional protections. Respondent submits that since the record in this case does not sufficiently establish a factual basis in light of which the constitutional questions allegedly present were properly presented, the Supreme Court of Georgia was correct in not meeting them, and for this reason, this Court lacks jurisdiction to consider them now.

The Georgia Supreme Court recognized the existence of these independent non-federal questions when the Court stated: "Assuming that this appellant's objections were timely made and substantiated, they relate primarily to the admissibility in evidence of such information." (Petition App. A36; 244 Ga. 322, 323). When the Court referred to the question of whether or not the objections were timely made, it is certainly reasonable that the Court was referring to the procedural argument made herein, supra. Likewise, the reference to substantiation by the Court referred to some showing by Ambassador College that it was an entity entitled to the constitutional protections advanced. This proposition is supported by the fact that the Court does not pretend to deal with all of the objections raised by the Petitioner in that the Court states that the objections related "primarily" to the admissibility in evidence of such information. As stated earlier, it is submitted that the Court was referring to the vigorous argument advanced by Petitioner that the discovery sought was irrelevant and inadmissible since it related to independent transactions. Since the Court did not meet all the constitutional objections raised by Petitioner, it stands to reason that the Court was relying on the adequate, independent non-federal grounds advanced by Respondent. This is especially true in light of Justice Hill's concurring opinion, wherein he states that the record in this cause

was not such as would allow the Court to properly consider Petitioner's Fourth Amendment claims (Petition App. A38; 244 Ga. 322, 325).

In the Petition for Writ of Certiorari (see page 9), Petitioner argues that the substantiation requirement mentioned by the Supreme Court of Georgia would require some sort of showing by Petitioner that disclosure of the information sought would infringe on its rights of association and free exercise of religion. Petitioner argues that the burden should be the other way, that is, Respondent should show that disclosure would not infringe upon Petitioner's rights of association and free exercise of religion. Petitioner has overlooked the fact, however, that this is not a case where the nature and status of the entity seeking constitutional protection is not in question, as is the normal case. To the contrary, in this case, the main thrust of Respondent's lawsuit and discovery was concerned with whether or not Petitioner was in fact related to a legitimate religious organization at all, or whether Petitioner and its associated entities were simply vehicles for financial gain for a selfish few.[2] To allow a party against whom discovery is sought to avoid such discovery simply by stating that they are "church related" in a case where the very nature and extent of the relationship itself is the

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2. Respondent certainly had ample ground to become suspect of the exact nature of Petitioner and the associated Worldwide Church of God when the church and the college received national media attention as a result of serious allegations that church and college officials were pilfering church assets and diverting millions of dollars to their own use and benefit. These accusations prompted legal action by the Attorney General of the State of California, which resulted in the church and the college being placed in receivership. The Atlanta Journal and Constitution, January 6, 1979, at 8-B; The Atlanta Journal and Constitution, Saturday, February 17, 1979, at 1; The Atlanta Journal and Constitution, Saturday, January 13, 1979, at 8-B; The Atlanta Journal and Constitution, November 23, 1978, at 5-F; The Atlanta Journal and Constitution, February 18, 1979, at 1; Newsweek, January 15, 1979, Vol. XCIII, No. 3, at 61.

point in question, provides at best a circuitous procedure whereby the issue is simply avoided, and cannot be reached. Petitioner's argument is, simply put, "one cannot find out what we are, because of what we are". Certainly, the Supreme Court of Georgia correctly concluded that some sort of threshold showing of the nature of the objecting entity could be required before considering the validity of the constitutional objections advanced by Petitioner.

II.

Petitioner Does Not Put Forth a Substantial Federal Question for This Court's Consideration, and the Petition for Writ of Certiorari Should Therefore Be Denied.

Although the question of whether or not a substantial federal question has been presented for consideration is necessarily interwoven with considerations of the existence of independent non-federal grounds for decision, nevertheless, Respondent maintains that the questions advanced by Petitioner fail to meet the tests of reviewability previously propounded by this Court. Petitioner alleges in the Petition for Writ of Certiorari that the decision of the Georgia Supreme Court conflicts with First Amendment principles enunciated by this Court (see page 9) but Petitioner fails to cite any decision of this Court dealing with the constitutionality of the application of discovery rules in a context similar to the case at bar. The Georgia Civil Practice Act (Ga. Code Ann. Title 81A) is in all major respects derived from the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure are, of course, promulgated by this Court, the very court whose primary responsibility is the protection of the constitutional rights which Petitioner now claims limit the discovery process. Certainly, if these rights were intended to limit the scope

of discovery in a civil proceeding, this Court, in promulgating the Rules, would have taken this into account. A holding that the right of associational privacy requires considerations external to those raised by the discovery rules would have the effect of destroying discovery in civil matters. The discovery rules in question here passed constitutional muster when first promulgated by this Court, and the protections afforded therein are adequate to protect the constitutional rights of Petitioner and all other litigants subjected to discovery. *Hanna v. Plumer*, 380 U.S. 460 (1965).

Petitioner relies in the main on associational rights enunciated in *NAACP v. Alabama*, 357 U.S. 449 (1958). There, the State of Alabama sought the production of the entire membership list of the NAACP in Alabama, for no apparent worthwhile reason. The Court did not preclude the possibility that under certain circumstances production would be proper where a sufficient State interest in obtaining the list could be shown. In the case at bar, Respondent never sought the names of all members of Petitioner (assuming there are such members), or a list of all contributors. Rather, Respondent sought to discover the names and locations of persons who quite probably could provide Respondent with information concerning the tactics and mode of operation of Petitioner and its related organizations in obtaining gifts of real estate or other property similar to those utilized in the case of Respondent's mother. Certainly, requiring Petitioner to reveal this very pertinent, relevant information that could not be obtained from other sources,[3] in a civil context where Petitioner is opposed by a private citizen who alleges

3. Respondent could not rely on a search of public records to obtain the names of potential witnesses, since it appeared that Petitioner was in the habit of recording deeds such as the one in question here only after the demise of the grantor (R. 4, 11).

that she has been aggrieved by their activities, satisfies all requirements of *NAACP v. Alabama,* supra, for disclosure, and does not expose those whose names are revealed to "economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility" which was so much the concern of the court in *NAACP v. Alabama,* supra.

It appears settled that the existence of a foreign corporation within a state depends solely on the will of the state, and that it only has such powers within the state as are conferred upon it by the state. *Cooper Company of Gainsville v. The State,* 187 Ga. 497, 1 S.E. 2d 436 (1939); Ga. Code Ann. § 22-1401. Petitioner is in effect asking that Georgia allow Petitioner to come into the State and be recognized, and own property within the State, and have the property rights of Petitioner protected by the laws of the State, and yet Petitioner insists Georgia courts are without the power to inquire into the facts and circumstances under and by virtue of which Petitioner acquired the ownership of the property within the State that is in question. If Petitioner cannot be forced to reveal the information sought, certainly Petitioner should not expect to be allowed to hold property which might have been improperly acquired. Perhaps the remedy conceived by the trial court is the precise result that should come about in such a situation—Petitioner can refuse to answer, but it cannot use such a refusal as a cover for possible improper activity. Certainly, there is no substantial federal question presented here for review.

CONCLUSION

It is respectfully submitted that the Petitioner has failed to meet its burden of showing on the record that the decision below was not based on an adequate independent non-federal ground. Furthermore, the Petitioner has wholly failed to sustain its burden of establishing that a substantial federal question has been presented for review. The Supreme Court of Georgia correctly affirmed the trial court, and for these reasons and each and every reason presented above, Respondent respectfully requests that the writ of certiorari be denied.

Respectfully submitted,

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